

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANTHONY V. CORDOVA,

Plaintiff,

v.

Case No. 22-C-1434

RANDALL HEPP,

Defendant.

ORDER DENYING MOTION TO COMPEL

Plaintiff Anthony V. Cordova, who is representing himself, is proceeding on a First Amendment claim against Defendant Randall Hepp in connection with allegations that his subscriptions to Prison Legal News and Criminal Legal News have been confiscated at the Waupun Correctional Institution with no penological justification since January 2022. Dkt. Nos. 7 & 27. Discovery closes January 18, 2024; and dispositive motions are due February 20, 2024. Dkt. No. 34.

On October 6, 2023, Plaintiff filed a motion to compel discovery. Dkt. No. 40. Plaintiff states that he served Defendant with interrogatories, and he has not yet received responses. *Id.*, ¶2. Plaintiff states that he “did invoke his discovery rights with the Court” on August 23, 2023. *Id.* And he states that he has not been able to meet and confer with Defendant because the institution will not give him stamps. *Id.*, ¶3.

The Court will deny the motion to compel without prejudice. It’s unclear when Plaintiff served Defendant with interrogatories. Contrary to Plaintiff’s assertion, there is no certificate of service on the docket indicating the dates on which Defendant was served with discovery. *See* Dkt. No. 35. If Plaintiff served Defendant with his discovery requests on or around August 23, 2023 (the day Plaintiff purports to have “invoked” his discovery rights with the Court),

Defendant's responses are not yet due because the scheduling order extended the response deadline to 60 days, *see* Dkt. No. 34, ¶1, meaning that responses would not be due until October 22, 2023. Plaintiff is reminded that, to properly serve his discovery requests, he must mail it to Defendant's lawyer at the address listed on the docket.

Plaintiff is also advised that the institution has no obligation to provide him with unlimited free stamps. *See Gaines v. Lane*, 790 F.2d 1299, 1308 (7th Cir. 1986) (citing *Bach v. Coughlin*, 508 F.2d 303, 307 (7th Cir. 1974)). The institution must provide inmates with some free stamps to access the courts, *see id.*, but it is Plaintiff's responsibility to conserve and allocate his other resources such that he is properly able to litigate his case, i.e., serve his discovery requests *and* meet and confer with Defendant regarding discovery disputes prior to filing a motion to compel. *See* Civ. L.R. 37 (E.D. Wis). Plaintiff may also seek out legal loans if he needs postage in addition to what the institution will provide for free.

Discovery is still open until January 2024; therefore, Plaintiff has ample opportunity to correct and resolve any discovery issues. Accordingly, the Court will deny his motion to compel without prejudice. At the same time, however, the court will suggest that counsel for Defendant work with Plaintiff, assuming time permits, to resolve any pending discovery disputes. By taking the initiative and conferring with Plaintiff at this point, counsel may be able resolve any future discovery issues. That would serve the interest of all by avoiding time-consuming briefing and further orders on discovery motions.

IT IS THEREFORE ORDERED that Plaintiff's motion to compel discovery (Dkt. No. 40) is **DENIED** without prejudice.

Dated at Green Bay, Wisconsin this 18th day of October, 2023.

s/ William C. Griesbach

William C. Griesbach
United States District Judge